

Executive Summary

Pellerano & Herrera
Attorneys at law

Law No. 28-01 and its Implementation Regulation through which a Special Frontier Development Zone is created

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I. Scope of Implementation and Interpretation

Law No. 28-01 dated 1st. February 2001 creates a special development frontier zone for industrial, agro-industrial, agriculture/livestock, metal-mechanic, free zone, tourism, metallurgical and energy companies that exist at the time of promulgation of said law, and those that may be installed in the future within the limits of the provinces of Pedernales, Independencia, Elías Piña, Dajabón, Montecristi, Santiago Rodríguez and Bahoruco.

The development, incentive and protection of those companies has been declared of national interest as well as all those that are included by the law; the implementation regulation stipulates that only those companies which have not been classified nor had benefited by other special contracts and/or other laws and provisions of similar incentives, as well as those companies and projects that demonstrate their economic and financial feasibility may benefit from this law.

II. Protection and Priority Activities

In accordance with the regulations, preferred treatment will be granted to projects and companies which are geared toward the integral

development of the frontier zone, particularly those oriented toward increasing trade and production.

License contracts for exploitation of patents, use of trade marks, renting of machinery and equipment and transfer of expertise whose objective is to facilitate the transfer of technology to the projects and companies benefited by the provisions of this law, will be considered a priority.

The Dominican Government will be responsible, through the institutions and agencies it deems convenient, for establishing the necessary mechanisms to respond to the financial requirements related to the development of the benefited companies.

III. Institutional Agencies for Implementation of the Law

Law 28-01 creates the Coordinating Council of the Special Frontier Development Zone which will be supported by a Technical Office that will implement the policies and guidelines established by the Council.

The Technical Office will be formed by:

- Executive Direction, responsible for the management of the Technical Office and acting also as the agency responsible for receiving and processing the requests from projects and companies interested in taking advantage of the benefits provided by the law.
- The Administrative Department.
- The Incentives Control and Monitoring Department.
- The Evaluation and Classification Department.

Established by the implementation regulations of Law 28-01, the presidency of the Coordinating Council is assumed automatically by the Director General of Frontier Development. In addition, the Council will be formed by the following members:

- Senators and congressmen of the provinces benefited by this Law;
- A representative of the Secretariat of State of Industry and Commerce;
- A representative of the Secretariat of State of Tourism;

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- A representative of the General Directorate of Industrial Development;
- A representative of the Non Governmental Organizations (NGOs), for each province;
- A representative of the Catholic Church; and
- A representative of the Evangelical Church.

It is also established that government agencies which are linked to the companies, will provide their support, technical assistance and advice to the agencies responsible for implementing and orienting the development of the general frontier development plan.

IV. Fiscal Incentives, Conditions and Term

Law 28-01 and its regulation establish that the companies or projects that avail themselves of the preferential regime will have the right, subject to the specific limitations that will be determined by the corresponding classification, to the following fiscal incentives.

- a. One hundred per cent (100%) exemption of the Income Tax of Net Taxable Income.
- b. Exemption of ITBIS (sales tax) payment.
- c. Exemption of import duties and taxes and other related charges, including tariffs, unified taxes and those of internal consumption that have a bearing on semi-processed products that are part of the composition or the manufacture process of the product, packaging or package materials.
- d. Exemption of import duties and taxes and other related charges, including tariffs, unified taxes and those of internal consumption that have a bearing on:
 - Fuels and lubricants used strictly for the industrial process, except gasoline.
 - Industrial machineries, equipment, spare parts and accessories that are imported exclusively to form part of the relevant industrial unit.
- e. Exemption of the Income Tax of the portion of the Net Taxable Income that individuals or companies reinvest in implementation of the industries or to develop new industries, classified under Law 28-01, prior submission of projects that will require the approval of the Coordinating Council. This exemption will cover as many fiscal years as are necessary to reach total reinvestment value, without the exemption in each fiscal year exceeding 50% of the tax payer's Net Income.
- f. Exemption of 50% from the payment of freedom of movement and use of ports and airports.

For literals a, b and f, the exemption will be granted through the prior presentation of a certificate of frontier company that must be issued by the Coordinating Council of the Special Frontier Development Zone, stating compliance with the classification requirements. Said certificate

is subscribed by the Chairman of the Council and the Executive Director of the Technical office, acting in the capacity of Secretary of the Council.

Income tax exonerations established under literals d and e will be considered independent of each other. The investor may benefit from them individually or jointly, up to 100% of net taxable income, subject to the individual limits established by the regulations for implementation of Law 28-01.

Any petitioner, individual or company, that tries to avail of the exemptions granted by Law 28-01, must previously be up to date in the payment of Income Tax. In those cases when the company is benefited with 100% exemption of Income Tax, it must nevertheless file its Sworn Income Statement before the General Directorate of Internal Taxes.

The implementation regulations establish that under no circumstances will the exempt importation of machinery, equipment, spare parts and accessories, fuel, semi-processed and finished products, packaging and other components be allowed when these are produced locally in enough quantities and of similar quality and at competitive prices. To this end, included in the price comparison will be all import duties of the competitive product.

All companies or projects that avail themselves of Law 28-01 and its regulations will enjoy the corresponding benefits to the incentives stated for an exemption period of a maximum of 20 years.

It is also established that any company already installed or to be installed in the provinces stated above, will benefit from an exemption of 50% of any other tax, rate or contribution in effect at the date law 28-01 becomes effective or those that could be established later, for the duration of the 20 year period.

Law 28-01 grants a period of 5 years to established companies to enjoy the full exemption period. This five year period will be calculated as of the date the implementation regulation becomes effective. All companies established after this period, will benefit only from the remaining exemption period still in effect, counted as of the day following the expiration date of the five year period.

Benefits granted under Law 28-01 will not be available if there is a reduction of capital or if the benefited company is dissolved within three years following approval of the classification requirement. In addition, the company will have to reimburse the public treasury the amount exempted.

V. Classification Procedure

In accordance with the above, requests to avail of the benefits of law 28-01 must be processed through the Executive Directorate of the Technical Office complying with the following requirements and procedures:

- a. File the dossier containing the documents that allow identification of the individual or company making the request, including description of the project in question;
- b. Once compliance with all the requirements established under Law 28-01 and its regulation have been verified, the Executive

Directorate will proceed to submit the dossier to the Department of Evaluation and Classification;

- c. The Department of Evaluation and Classification will appoint a Commission to study the feasibility of the project;
- d. The opinion of the Commission will be submitted to the Executive Directorate;
- e. The Executive Directorate will submit the report to the President of the Coordinating Council;
- f. The Coordinating Council will approve or reject in part or in whole the project request.

Every request that is granted a favorable opinion by the Coordinating Council and whose study of the project's Terms of Reference is still pending the evaluation of the Secretariat of State of Environment and Natural Resources will not be able to start enjoying the benefits and incentives of Law 28-01. If said terms are finally rejected, the classification granted by the Coordinating Council will be automatically annulled.

Rejected requests must be filed at the Executive Directorate of the Technical Office.

Classification requests approved will be the object of a resolution, which will be accompanied by a statement of the technical and economic features supporting the decision of the Evaluating Commission.

In accordance with the implementation regulation of law 28-01, resolutions must state, among others, the incentives corresponding to the company benefited, the products it manufactures, and the raw materials and other inputs it is allowed to import exonerated in full or in part of import taxes.

The approved decisions or rejections by the Coordinating Council are susceptible of appeal, through a motion addressed to the President of the Council via the Executive Director. If the appeal is approved, the Coordinating Council may request that a new evaluation be carried out.

The Coordinating Council may authorize the companies benefited by the provisions of Law 28-01 to transfer their concession, after their industry is in operation, to any individual or company, after receiving a favorable report from the Executive Directorate of the Technical Office. In addition, after a study of the changes projected, it may give an opinion regarding maintenance, reform or loss of the classification and inherent benefits.

The responsibility of demanding compliance with the obligations assumed by the companies and projects benefited by law 28-01 corresponds to the Secretariat of State of Finances in conjunction with the Executive Directorate of the Technical Office.

VI. Proof of Rights or Exemption

For the purposes of award, process and verification of the exemption rights established by law 28-01 and its regulation, the Coordinating Council will issue a Certificate of Frontier Company, which will refer to the type of classification granted. Said certificate must be attached to all documents of Government collection agency when making use of the right or exemption.

In the case of securities, titles, stock or other similar liabilities that enjoy any of the incentives provided by the law, they must included in the printed document a reference to the number and date of the Coordinating Council's resolution stating the company's classification and corresponding exemptions.

VII. Responsibilities of the Benefited Companies

Every company or project benefited by law 28-01 must, in addition to that set forth under the Trade Code, keep a record of exempted articles as well as organized accounting that allows verification of inventories, fixed assets and depreciation. Said record and accounting must be made available to the General Directorates of Internal Revenue, Customs, as well as any authorized official to examine them.

Also, companies will be requested to collaborate by providing whatever data is requested by relevant authorities regarding monitoring of the benefits granted.

VIII. Penalties

The implementation regulation of law 28-01 provided a series of penalties that start with application of monetary fines up to imprisonment, for the individuals or companies who benefited by the law try to give a different use to the benefits than that for which they were granted.

In addition, temporary suspension of the benefits granted to an individual or company will be implemented without annulment of the resolution granting the exemptions and rights, after expiration of a period of 60 days given to correct the violations.

Suspension of benefits referred to are independent of any other applicable type of penalty.

Pellerano & Herrera

Attorneys at law

Av. John F. Kennedy No.10
Santo Domingo, Dominican Republic
Apartado Postal 20682
Tel. (809) 541-5200
Fax (809) 567-0773

Calle Paseo Oeste, La Rosaleda
Edif. Bionuclear 1er. Piso
Santiago, Dominican Republic
Tel.: (809) 580-1725
Fax : (809) 582-2170

Plaza Larimar, Local 17
Cruce de Friusa, Bávaro
Higüey, Dominican Republic
Tel.: (809) 552-1105
Fax: (809) 552-1986

Calle Duarte esq. 19 de Marzo
Edificio Banco Popular, piso 2
Azua, Dominican Republic
Tel.: (809) 521-2178
Fax: (809) 521-2281

International Mailing Address:
A-303
P.O. Box 52-4121
Miami, FL 33152-4121
United States of America

www.phlaw.com
ph@phlaw.com